

# The Burger Court Opinion Writing Database

*Simmons v. West Haven Housing Authority*  
399 U.S. 510 (1970)

Paul J. Wahlbeck, George Washington University  
James F. Spriggs, II, Washington University  
Forrest Maltzman, George Washington University



Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
THE CHIEF JUSTICE

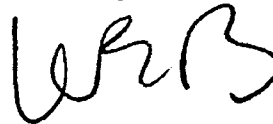
June 18, 1970

Re: No. 81 - Simmons v. West Haven Housing Authority

Dear John:

Please join me.

Regards,

A handwritten signature in dark ink, appearing to be 'W.E.B.' with a stylized flourish at the end.

W.E.B.

Mr. Justice Harlan

cc: The Conference

June 15, 1970

MEMORANDUM FOR THE CONFERENCE

I am agreeing to the following opinions:

No. 81 - Simmons v. West Haven Housing Auth.  
(Harlan, J., Per Curiam)

No. 1435 - Overmyer Co. v. Frick Co.,  
(Douglas, J., dissenting)

No. 1507 and No. 1556 - Perkins v. Standard Oil  
(Per Curiam, Stewart, J.)

Respectfully,

H. L. B.

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE HUGO L. BLACK

June 15, 1970

Dear John,

Re: No. 81 - Simmons v. West Haven, etc.

I agree.

Sincerely,

*Hugo*  
Hugo

Mr. Justice Harlan

To: The Chief Justice  
Mr. Justice Black  
Mr. Justice Harlan  
Mr. Justice Brennan ✓  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun

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## SUPREME COURT OF THE UNITED STATES

From: Douglas, J.

No. 81.—OCTOBER TERM, 1969

Circulated: 6/11/70

Rector Simmons, Jr.,  
et ux., Appellants,  
v.  
West Haven Housing  
Authority.

On Appeal From the Appellate  
Division of the Circuit Court  
of Connecticut.

[June —, 1970]

MR. JUSTICE DOUGLAS, dissenting.

This was a summary procedure brought by a landlord<sup>1</sup> to obtain possession from his tenants for nonpayment of rent. The trial court found for the landlord and the tenants appealed.

Connecticut law requires one taking an appeal in such an action to post a bond with surety. The tenants showed they were financially unable to post the bond and claimed that to require a bond with surety to obtain an appeal would under those circumstances be a denial of equal protection. The trial court refused to waive the requirement for a bond with surety saying that "the appeal is for the purpose of delay."

The Circuit Court affirmed. The Appellate Division ordered the termination of a stay of execution. 5 Conn. Circ. 282, 250A 2d 527. The Supreme Court denied certification.

I would reverse this judgment. A rich tenant, whatever his motives for appeal, would obtain appellate review. This tenant, because of his poverty, obtains none. I can imagine no clearer violation of the requirement of equal protection unless it be *Griffin v. Illinois*, 351

<sup>1</sup> Respondent operates a federally assisted low-rent housing project under the authority of 42 U. S. C. § 1401 *et seq.* and Conn. Gen. Stat. § 8-38 *et seq.*

2, 4

To: The Chief Justice  
Mr. Justice Black  
Mr. Justice Harlan  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun

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# SUPREME COURT OF THE UNITED STATES

No. 81.—OCTOBER TERM, 1969

From: Douglas, J.

Rector Simmons, Jr.,  
et ux., Appellants,  
v.  
West Haven Housing  
Authority.

Circulated: \_\_\_\_\_  
On Appeal From the Appellate  
Division of the Circuit Court  
of Connecticut. Re-circulated: 6-16

[June —, 1970]

MR. JUSTICE DOUGLAS, dissenting.

This was a summary procedure brought by a landlord<sup>1</sup> to obtain possession from his tenants for nonpayment of rent. The trial court found for the landlord and the tenants appealed.

Connecticut law requires one taking an appeal in such an action to post a bond with surety. The tenants showed they were financially unable to post the bond and claimed that to require a bond with surety to obtain an appeal would under those circumstances be a denial of equal protection. The trial court refused to waive the requirement for a bond with surety saying that "the appeal is for the purpose of delay."

The Circuit Court affirmed. The Appellate Division ordered the termination of a stay of execution. 5 Conn. Cir. 282, 250 A. 2d 527. The Supreme Court denied certification.

I would reverse this judgment. A rich tenant, whatever his motives for appeal, would obtain appellate review. This tenant, because of his poverty, obtains none. I can imagine no clearer violation of the requirement of equal protection unless it be *Griffin v. Illinois*, 351

<sup>1</sup> Respondent operates a federally assisted low-rent housing project under the authority of 42 U. S. C. § 1401 et seq. and Conn. Gen. Stat. § 8-38 et seq.

*2 April*

SUPREME COURT OF THE UNITED STATES

No. 81.—OCTOBER TERM, 1969

To: The Chief Justice  
Mr. Justice Black  
Mr. Justice Douglas  
Mr. Justice Brennan ✓  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall

Rector Simmons, Jr.,  
et ux., Appellants,  
v.  
West Haven Housing  
Authority.

On Appeal From the Appellate  
Division of the Circuit Court  
of Connecticut.

Circulated: JUN 11 1970

[June —, 1970]

Recirculated: \_\_\_\_\_

PER CURIAM.

We noted probable jurisdiction in this case to decide whether § 52-542 of the Connecticut General Statutes<sup>1</sup> requiring a bond for the protection of his landlord from a tenant who wished to appeal from a judgment in a summary eviction proceeding, offends either the Due Process or Equal Protection Clauses of the Fourteenth Amendment if applied to foreclose appellate review for those too poor to post the bond, 394 U. S. 957 (1969).

<sup>1</sup> Section 52-542 provides:

"Bond on appeal; stay of execution. When any appeal is taken by the defendant in an action of summary process, he shall give a sufficient bond with surety to the adverse party, to answer for all rents that may accrue or, where no lease had existed, for the reasonable value for such use and occupancy, during the pendency of such appeal, or which may be due at the time of its final disposal; and execution shall be stayed for five days from the date judgment has been rendered, but any Sunday or legal holiday intervening shall be excluded in computing such five days. No appeal shall be taken except within said period, and if an appeal is taken within said period execution shall be stayed until the final determination of the cause, unless it appears to the judge who tried the case that the appeal was taken for the purpose of delay; and if execution has not been stayed, as hereinbefore provided, execution may then issue, except as otherwise provided in sections 52-543 to 52-548, inclusive."

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To: The Chief Justice  
Mr. Justice Black  
Mr. Justice Douglas  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun

# SUPREME COURT OF THE UNITED STATES

From: Harlan, J.

No. 81.—OCTOBER TERM, 1969

Circulated: \_\_\_\_\_

Rector Simmons, Jr.,  
et ux., Appellants,  
v.  
West Haven Housing  
Authority.

On Appeal From the Appellate  
Division of the Circuit Court  
of Connecticut.

Recirculated **JUN 25 1970**

[June —, 1970]

PER CURIAM.

We noted probable jurisdiction in this case to decide whether § 52-542 of the Connecticut General Statutes<sup>1</sup> requiring a bond for the protection of his landlord from a tenant who wished to appeal from a judgment in a summary eviction proceeding, offends either the Due Process or Equal Protection Clauses of the Fourteenth Amendment if applied to foreclose appellate review for those too poor to post the bond, 394 U. S. 957 (1969).

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Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

June 18, 1970

RE: No. 81 - Simmons v. West Haven Housing  
Authority

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Dear John:

I agree with your Per Curiam in the above  
case.

Sincerely,

*Bill*  
W.J.B. Jr.

Mr. Justice Harlan

cc: The Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE POTTER STEWART

June 12, 1970

No. 81 - Simmons v. W. Haven Housing

Dear John,

I am glad to join the Per Curiam you have  
prepared in this case.

Sincerely yours,

P.S.

Mr. Justice Harlan

Copies to the Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE BYRON R. WHITE

June 18, 1970

Re: No. 81 - Simmons v. West Haven Housing  
Authority  
No. 265 - Boddie v. Connecticut

Dear John:

Please join me in the opinions you have  
written for these cases.

Sincerely,

*Byron*  
B.R.W.

Mr. Justice Harlan

copies to The Conference

cc: The Conference